

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**EUGENE C. HULL,**

**Plaintiff,**

**-v.-**

**No. 6:08-CV-050  
(TJM/DRH)**

**COMMISSIONER OF SOCIAL SECURITY,**

**Defendant.**

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**THOMAS J. McAVOY,  
Senior United States District Judge**

**DECISION & ORDER**

On January 14, 2008, Plaintiff filed a Complaint *pro se* appealing from a decision of the Commissioner of Social Security. Compl. [dkt. # 1]. The matter was referred to the Hon. David R. Homer, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Rule 72.3(d) of the Local Rules of the Northern District of New York.

As stated in Magistrate Judge Homer's December 24, 2008 Report-Recommendation and Order [dkt. # 16], Plaintiff failed to comply with Magistrate Judge Homer's September 2, 2008 Order that directed him to file his brief in this matter by October 6, 2008. Further, Plaintiff failed to comply with Magistrate Judge Homer's December 24, 2008 Order that required Plaintiff "to file with the Court within thirty (30) days of the date of the service of this Order an affidavit that details the reasons why this

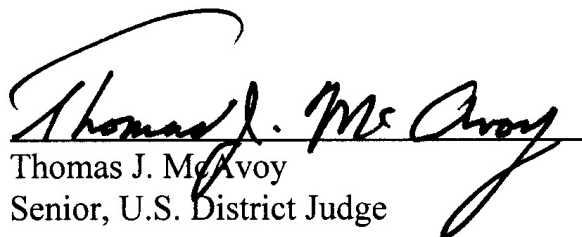
action should not be dismissed for want of prosecution.” Rep-Rec. 2. Finally, Plaintiff has not filed any objection to Magistrate Judge Homer’s recommendation that “if no such affidavit is received by the Court [within thirty (30) days of the date of service of the December 24, 2008 Report-Recommendation and Order], or if plaintiff otherwise fails to show good cause why this case should not be dismissed, that this action be dismissed.”

Plaintiff has clearly abandoned the prosecution of this matter. Therefore, it is hereby

**ORDERED** that the action is dismissed without prejudice pursuant to Local Rule 41.2 for failure to prosecute.

**IT IS SO ORDERED**

DATED: March 12, 2009

  
Thomas J. McAvoy  
Senior, U.S. District Judge